

*AMENDMENTS***§ 153.265 AMENDMENT RESPONSIBILITY.**

(A) The Town Board of Commissioners on its own motion or by petition may amend, supplement, change, or repeal the zoning district boundaries or regulations established by this chapter. Any such amendment will be adopted only after public notice and public hearing as required by general law.

(B) In approving an amendment to change a zoning classification, the Commissioners may change the existing zoning classification of the area or any part of the area covered by the petition to the classification requested or to a higher classification or classifications. This action may occur without the withdrawal or modification of the petition.

(C) When considering a petition for rezoning to a general zoning classification, the Commissioners will not evaluate the petition based on any specific proposal for the use or development of the property. The petitioner will refrain from using any graphic materials or descriptions of the proposed development except for those which would apply to any use permitted by the requested classification. ('72 Code, § 24-1301) (Ord. 477, passed 2-8-88)

§ 153.266 PETITION FOR AMENDMENT.

A petition for an amendment must be completed on the application forms provided and filed with the Town Planning Office, together with the necessary fee as established by the Board of Commissioners. ('72 Code, § 24-1302) (Ord. 477, passed 2-8-88; Am. Ord. 875, passed 5-9-94)

§ 153.267 WITHDRAWAL OF PETITIONS.

(A) Petition for rezoning of property or amendment to this chapter may be withdrawn by the petitioner at any time up to and including 15 days prior to the hearing date. After that time, requests to withdraw a petition must be filed with the Clerk to the Town Commissioners, and on the day of the hearing the Commissioners will decide if the withdrawal will be allowed. It is generally not the intent of this section to permit the withdrawal of petitions within the 15-day period. However, the Commissioners may approve a request for withdrawal if it finds that there are substantial circumstances which warrant favorable consideration and that the withdrawal will not be detrimental to the interests of citizens affected by the petition.

(B) Following formal acceptance of a petition by the Board of Commissioners, the petitioner may propose further adjustment to the petition which results in a more restrictive

zoning district, or petitioner may amend the proposed conditions in a conditional zoning district that do not alter the requested underlying proposed district designation. ('72 Code, § 24-1303) (Ord. No. 477, passed 2-8-88; Ord. No. 1524, passed 12-11-06)

§ 153.268 PUBLIC HEARING.

(A) No amendment of this chapter or rezoning of property may be adopted until after a public hearing has been held on the petition. A notice of the hearing will be placed in a local newspaper once a week for two successive calendar weeks. The notice will appear for the first time no less than ten days prior to the hearing date.

Mailed notification of the proposed change shall be provided by the applicant to owners of real property of those lots included in the proposed change, those immediately adjacent to the side or the rear of the affected area and those directly across the street from the area as exhibited on the application for a change in zoning.

Explanation of the protest petition shall be provided by the applicant to all property owners receiving mailed notification of the proposed changes as described above, when such petition is for a change in zoning classification. This notice shall be mailed by first class mail at least 14 days in advance of the public hearing.

(B) Anyone who wants to speak either for or against a petition may either be present at the hearing or arrange for a suitable agent to speak on his behalf. Or, interested parties may submit written correspondence or petition to the Board of Commissioners at or prior to the public hearing in order for it to be presented at the hearing. ('72 Code, § 24-1304) (Ord. 477, passed 2-8-88; Am. Ord. 669, passed 6-3-91; Am. Ord. 875, passed 5-9-94)

(C) During years where a municipal election is held, no public hearing for a new conditional district designation shall be held from October 1 until the day following the new Board of Commissioners' organizational meeting if a valid protest petition is filed. Where no valid protest petition is submitted for a new conditional district designation, but someone speaks in opposition at the public hearing during the period from October 1 until the day after the new Board's organizational meeting, then the decision shall be postponed on the rezoning request until a date after the newly constituted Board of Commissioners is seated. (Ord. No. 1237, passed 1-14-02)

§ 153.269 RECOMMENDATIONS OF PLANNING BOARD.

No proposal to amend this zoning chapter or to rezone property will be approved unless it is first submitted to the Planning Board for its recommendations. The Planning Board shall make a recommendation within 30 days after the petition has been referred. If the Planning Board does not complete their review within the specified period, then it will be considered the same as a favorable recommendation.

('72 Code, § 24-1305) (Ord. 477, passed 2-8-88)

(Ord.1305, passed 9-8-03; Ord. 1586, passed 8-13-07)

§ 153.270 EFFECT OF DENIAL.

A petition to amend this chapter or to rezone property that has been denied in whole or in part, or has been approved to a higher classification than the one originally requested, may not be resubmitted within one year from the date of action on the original request. However, the Commissioners may choose to allow a re-application, if after a report from the Planning Board, they determine that there have been substantial changes in circumstances or conditions which may relate to the request.

('72 Code, § 24-1306) (Ord. 477, passed 2-8-88)

§ 153.271 NO COMMITMENT PRIOR TO PUBLIC HEARING.

The Mayor, members of Town Board of Commissioners, and members (including alternates) of the Planning and Zoning Board shall make no commitment or agreement or enter into any understanding of any zoning issues through the petition process within the town limits or its extraterritorial jurisdiction until the conclusion of the public hearing on the petition to rezone or amend this zoning chapter.

('72 Code, § 24-1307) (Ord. 477, passed 2-8-88; Am. Ord. 749, passed 7-7-92; Am. Ord. 855, passed 5-8-95)

§ 153.272 RELIEVE MINOR NONCONFORMITIES REQUIRING VARIANCE ACTIONS DURING REZONING FROM AN OUTDATED CLASSIFICATION

(A) While a petition or motion to change a parcel from a classification that is no longer available in these regulations to a current zoning district designation may be desirable, this action may create some conditions on a parcel that would become nonconformities. In order to reduce the necessity of resulting multiple similar zoning variance actions, certain minor nonconforming elements may be determined to be exempt from strict compliance through the following:

(1) Any existing development which meets the setback and rear yard requirement of its zoning district prior to

amendment, but will exceed front setback and/or rear yard minimums in the proposed new zoning district, up to 20 feet, will be considered to be in conformance to the new zoning district provisions.

(2) Any existing development which meets the side yard requirements of its zoning district prior to amendment but will exceed one or more side yard minimums in the proposed new zoning district, up to ten feet, will be considered to be in conformance to the new zoning district provisions.

(3) Any existing development which meets the minimum parking requirements of its zoning district prior to amendment, but will be deficient in required parking by up to 10% for parcels up to 2 acres in size, or will be deficient by up to 15% for parcels greater than 2 acres, will be considered to be in conformance to the new zoning district provisions.

(4) Any existing development which did not have to meet any minimum landscape regulations prior to amendment, but will be deficient in some required landscaping in the proposed new zoning district, will be exempt from installation of new landscaping to meet current standards.

(5) Any existing development which meets the landscaping requirement imposed on it at the time of the last successful zoning action on the site but would not be in compliance in the proposed new zoning district, will be considered to be in conformance to the new zoning district provisions.

(6) Any existing development which meets the signage provisions imposed on it at the time of the last successful zoning action on the site, but would not be in compliance in the proposed new zoning district, will be considered to be in conformance with the new zoning district provisions if both: any single sign on the site is no more than 25% greater in sign area than what would be allowed in the proposed zoning district; and the total signs on the site are not in aggregate more than 15% greater in sign area and number than would be allowed under the proposed zoning district.

(B) any site which has existing development and utilizes one or more of the exemptions listed in (A) above, may continue in active use and may change from one land use to another under the exemptions listed above. When changes are made to the improvements on the parcel, the following apply:

(1) If structural changes are considered for any structure, then the provisions of 153.222 Nonconforming Structures shall apply. In cases where the application of these standards creates a significant hardship, a zoning variance may be requested.

(2) If any additions or changes are considered for on-site parking, or are required as a result of a change in use,

then the current parking standards must be fully met. Parking lot landscaping requirements must also be met for any new or revised parking lots. In cases where the application of these standards creates a significant hardship, a zoning variance may be requested.

(3) If any changes are made to a sign on the site that has been exempted under 153.272(A)(6) above, then the replacement sign must meet current standards but the overall exemption may still apply for the remainder of the site.

(4) When a developed parcel has utilized one or more of the exemptions at 153.272(A) and later is considered for significant or total redevelopment, then all standards in place at the time of redevelopment will be required. For purposes of this paragraph, significant redevelopment means any land disturbing activity whose cost exceeds 50% of the County tax market value of the property.
(Ord. No. 1749, passed 8-9-10)